

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.24792 of 2017
and
M.P.No.26176 of 2017

S. Palanisamy

...Petitioner

Vs

1. The Chief Educational Officer,
Department of School Education,
Collectorate Campus,
Salem - 636 001.

2. The Deputy Director,
Department of Employment and Training,
District Employment Office.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to pass appropriate orders on the petitioner's representation dated 29.08.2017 and 05.09.2017 and thereby select the petitioner to the post of Lab Assistant in Salem District to the remaining vacancy place.

For Petitioner : Mr.R. Marudhachalamurthy

For Respondents : Mrs.P.Kavitha
Government Advocate

O R D E R

This writ petition has been filed by the petitioner seeking for a direction to the first respondent to consider the petitioner's representations dated 29.08.2017 and 05.09.2017 and thereby select the petitioner to the post of Lab Assistant in Salem District to the remaining vacancy place.

2. According to the petitioner, the first respondent/The Chief Educational Officer had informed to conduct the selection process to fill up 176 post of Lab Assistant vacancies all over the Districts in various schools and thereby called for

applications to fill up the same from the qualified candidates. The petitioner had applied for the post of Lab Assistant and thereafter, his application was scrutinized by the first respondent, directing him to appear in the written test conducted by the first respondent and he has participated, obtained the mark of 118 in the written test and qualified in the written examination was directed to attend the counseling for certificate verification on 09.04.2017. During the verification of certificates, as per notification marks have been calculated on the following ratio viz., for plus two 2 marks and for degree qualification 3 marks and for employment seniority 10 marks, the respondents have allotted total of 18.5 to the writ petitioner. On enquiry, he came to know that due to non renewal of his 10th qualification, the first respondent has not allotted the aforesaid 10 marks and thereby he secured a total mark to 123, if the petitioner has properly renewed his employment registration for the tenth standard and he would have scored the said 10 marks and his final marks would be 133. In the meanwhile, on 22.08.2017, there was announcement by the Government that the persons who are not renewed their employment registration between 2011 to 2015 are given one time opportunity to renew their names in the Employment Exchange in G.O.(Ms). No.500, dated 22.08.2017, passed by the Labour and Employment Department, after knowing the same aforesaid Government Order, the petitioner had approached the second respondent/Employment Office seeking to renew his employment seniority and thereafter, he has approached the first respondent to grant 10 marks for the employment seniority. The petitioner made a representation to the second respondent on 29.08.2017, but there was no reply from the second respondent. Even though the first respondent had assured that he will consider and pass appropriate orders on the petitioner's representation. Therefore, he sent another representation on 05.09.2017 to the respondents, wherein, it is stated that the petitioner is made a request to award 10 marks for employment seniority to appoint as Lab Assistant in the available vacancies in Salem District. It is pertinent to point out that on 22.08.2017, Government passed G.O.(Ms).No.500, Department of Labour and Employment, wherein, it was specifically informed that the persons who are failed to renew their employment registration between 2011 to 2015, are permitted to renew the same as one time measure and in the Government Order, it was directed to renew within three months namely, on or before 21.11.2017 and accordingly he has renewed his employment registration on 29.08.2017 and on the same day, he made a representation to the first respondent to select him as Lab Assistant by providing appropriate marks to his employment seniority by considering the aforesaid Government Order passed by the Government, but even then the respondent has not consider for the reasons best known to him and therefore, he sent another representation dated 05.09.2017 and the same was

received by the first respondent, but no response from the respondent. Hence, the writ petitioner has come forward with the present writ petition.

3. Counter affidavit filed by the first respondent stating that the petitioner's SSLC certificate was not found renewed on the day of certificate verification on 09.04.2017. Based on the certificates produced in respect of (i) employment seniority, (ii) additional educational qualifications and (iii) previous experience in the post of Lab Assistant. The petitioner had scored 118 marks out of 150 marks in the written examination. In addition to the marks scored by the petitioner, 5 marks were awarded to him for additional educational qualifications i.e. 2 marks for Higher Secondary Course and 3 marks for Bachelor's Degree qualification. On the day of certificate verification, the petitioner's SSLC qualification was found for want of renewal with the employment office concerned. On account of this, marks meant for employment seniority were not allotted to him. Overall, the petitioner had scored a total of 123 marks (Written Examination-118/150, certificate based marks 5/17) out of 167 marks. Therefore, he was not selected for the post of Lab Assistant owing to the marks secured by him. Hence, the rejection of his request is in conformity with the relevant Rules as there is no provision to grant the reliefs to the petitioner as sought by him under existing Rules and circumstances of the instant case.

4. While that being so, the Government of Tamil Nadu issued G.O.(D)No.500, Labour and Employment (D2) Department dated 22.08.2017, wherein, it is ordered that those who have not renewed the employment seniority of their academic certificates with effect from 01.01.2011 to 31.12.2015 are given a special concession and they could renew their educational qualifications within three months either online or by district employment exchanges from the date of issue of the aforementioned Government Order. Insofar as this instant issue is concerned, certificate verification for the petitioner was conducted on 09.04.2017. Based on the G.O.(D).No.500, Labour and Employment (D2) Department, dated 22.08.2017 was released on 22.08.2017. On the day of certificate verification, the petitioner's educational qualification particularly his SSLC certificate registration was not currently live with the employment office concerned and the same was found for want of renewal. Under these circumstances, it is wrong on the part of the petitioner to claim a privilege with retrospective effect. The petitioner's claim is not only illegitimate but also misleading. By adhering to the petitioner's claim, the Government may have to incur a huge loss by way of salary and other benefits to one who is attempting to pull the wool over everyone's eyes. Further, this is nothing but an audacious attempt with mala fide

intention to avail an unwarranted benefit at the cost of the Public Exchequer which could be directed towards nobler causes. The Director of School Education vide his Proceedings Na.Ka.No.016311/A5/E1/2017, dated 24.03.2017 has clearly defined conditions with regard to procedures to be followed in the recruitment process. As per the Proceedings, employment seniority, higher educational qualifications and experience would be considered as they were on the day of 06.05.2015. Further, the proceedings states that no certificate produced after the day of certificate verification should be taken into consideration. Hence, it could be easily be concluded on the day of certificate verification and the marks awarded against certificates presented by him are strictly in compliance with the guidelines of the Director of School Education Proceedings in Na.Ka.No.016311/A5/E1/2017 dated 24.03.2017. Hence, the rejection of his request is in conformity with her relevant Rules in force.

5. The first respondent/The Chief Educational Officer in the counter affidavit has stated that based on the Government Order in G.O.(Ms)No.500, Labour and Employment (D2) Department, dated 22.08.2017 has announced to renew the petitioner for the period from 01.01.2011 to 31.12.2015 and the petitioner was registered his renewal through on-line on 29.08.2017. The writ petitioner had attended the certificate verification on 09.04.2017. The aforesaid Government Order was passed on 22.08.2017, after four months from the date of certificate verification. Therefore, the writ petitioner is not entitled to award the marks for the employment seniority as sought for by the writ petitioner.

6. According to the first respondent, the selection list was published on 17.04.2017. Based on the selection list, all the selected candidates were filled up by the respondents in the Salem District. In view of the above said facts, the petitioner is not entitled for the relief as prayed for in the writ petition for the aforesaid post as Lab Assistant.

7. In view of the facts and circumstances of the case, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

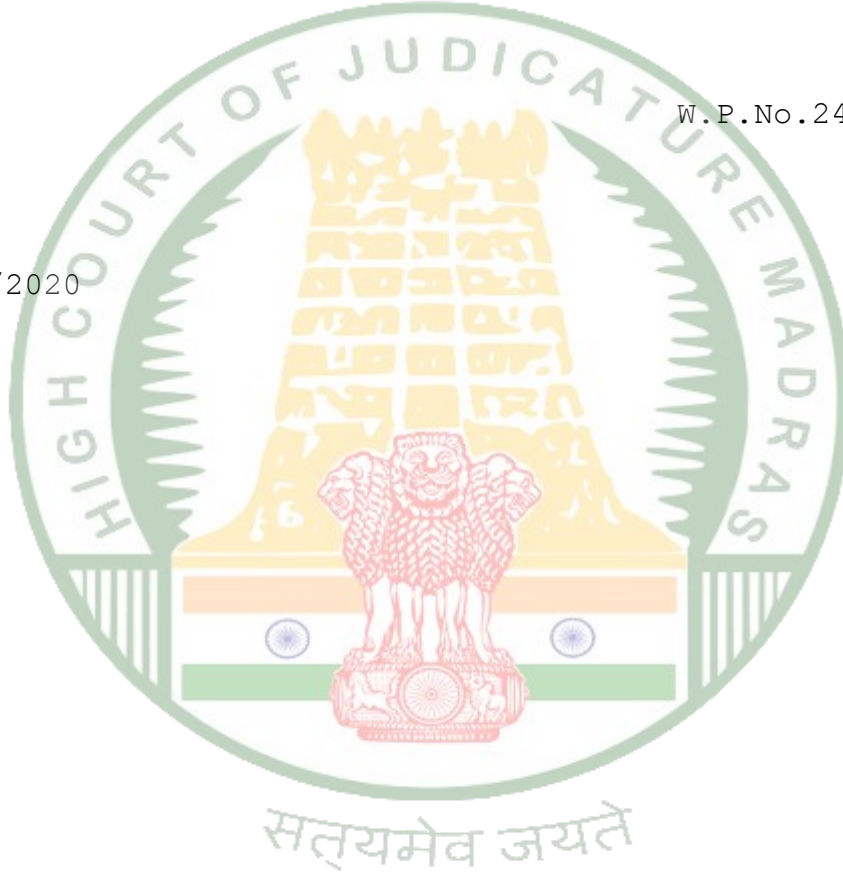
To

1. The Chief Educational Officer,
Department of School Education,
Collectorate Campus, Salem - 636 001.
2. The Deputy Director,
Department of Employment and Training,
District Employment Office.

+lcc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.5568
+lcc to the Government Pleader, S.R.No.5347

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BP (CO)
KKV/17/07/2020



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